

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

STEVEN J. SCHIEFFER,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

Case No. 2:16-cv-00672-APG-NJK

ORDER

(Docket No. 8)

Pending before the Court is Plaintiff's motion to proceed *sua sponte*. Docket No. 8. Defendant United States filed a response. Docket No. 12. No reply was filed. *See* Docket. The Court finds this matter properly resolved without oral argument. *See* LR 78-1.

Plaintiff asks the Court to waive the Federal Rules of Civil Procedural in this matter. Docket No. 8 at 1. Plaintiff bases this request on the fact that he is proceeding *pro se* and has been unable to obtain counsel. *Id.* at 1-2. Plaintiff also appears to ask the Court to find that the United States waived service. *Id.* at 1.

Pro se litigants are bound by the rules of procedure – both the federal rules and the Court's local rules. *See Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995); *King v. Atiyeh*, 814 F.2d 565, 568 (9th Cir. 1987). Plaintiff misconstrues LR 1.4. A federal district court, however, "can refuse to apply a Federal Rule of Civil Procedure in a civil case 'only if the Advisory Committee, [the Supreme] Court, and Congress erred in their prima facie judgment that the Rule in question transgresses neither the terms of the Enabling Act nor constitutional restrictions.'" *Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1103 (9th Cir. 2003) (alterations in original).

1 Plaintiff fails to make this showing. Further, Plaintiff's concerns are adequately addressed by
2 the Ninth Circuit's directive to liberally construe the filings of *pro se* litigants. *See Hebbe v. Pliler*, 627
3 F.3d 338, 342 (9th Cir. 2010). Thus, despite proceeding *pro se*, Plaintiff is bound by the Federal Rules
4 of Civil Procedure. *See Ghazali*, 46 F.3d at 54.

5 Additionally, Plaintiff's request regarding waiver appears to be moot. The United States has
6 appeared in the instant case, so any issue regarding waiver of service is moot.

7 Accordingly, Plaintiff's motion to proceed *sua sponte*, Docket No. 8, is hereby **DENIED**.

8 IT IS SO ORDERED.

9 DATED: July 1, 2016.

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NANCY J. KOPPE
United States Magistrate Judge
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